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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

EARNEST, DALTON,
Petitioner,

v.

GENE JOHNSON,
Respondent.

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Civil Action No. 7:04cv00643

FINAL ORDER

By: Jackson L. Kiser
Senior U.S. District Judge

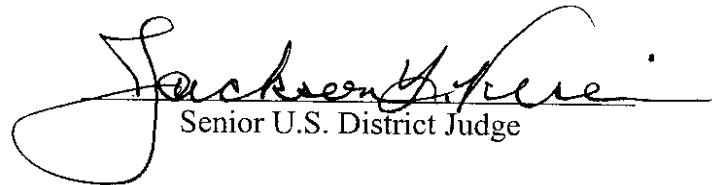
In accordance with the Memorandum Opinion entered this day, it is hereby

ADJUDGED and ORDERED

that the respondents' motion to dismiss shall be and hereby is **GRANTED** and Pate's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 shall be and hereby is **DISMISSED**. This case shall be **STRICKEN** from the active docket of the court.

The Clerk of the Court is directed to send a certified copy of this order and accompanying memorandum opinion to the petitioner and counsel of record for the respondents.

ENTER: This 29th day of April, 2005.


Senior U.S. District Judge